

REMARKS/ARGUMENTS

The Examiner is requiring restriction of the above-identified application as follows:

- Group I: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR1 wherein R1 is as claimed, R2-R9 are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring, none of the substituents on the ring(s) can be heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and none of the radicals of W and X can be covalently linked to one another;
- Group II: Claims 1-6, drawn to the phosphinine compound of formula I wherein n is 0 or 1, Y is O, NH, NR1 wherein R1 is as claimed, R2-R9 are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring of the formula III in claim 3, then at least one of the R12-R17 or R21-R28 can be a heterocyclic or aliphatic-heterocyclic ring, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and W and X are covalently linked to one another;
- Group III: Claims 1-6, drawn to the phosphinine compound of formula I wherein n is 0 or 1, Y is O, NH, NR1 wherein R1 is as claimed, at least one of the radicals R2-R9 is an aliphatic-heterocyclic or heterocyclic group and the rest of the radicals R2-R9 are as claimed, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring, none of the substituents on the ring(s) can be heterocyclic, W

and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and none of the radicals of W and X can be covalently linked to one another;

Group IV: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, at least one of R₂-R₉ is an aliphatic-heterocyclic or heterocyclic group and the remainder of the radicals R₂-R₉ are as claimed, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring of the formula III in claim 3, then at least one of the R₁₂-R₁₇ or R₂₁-R₂₈ can be a heterocyclic or aliphatic-heterocyclic ring, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and are not covalently linked to one another;

Group V: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and none of the radicals of W and X can be covalently linked to one another;

Group VI: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and W and X are covalently linked to one another;

Group VII: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, at least one of R₂-R₉ is an

aliphatic-heterocyclic or heterocyclic group and the rest of the radicals R2-R9 are as claimed, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and none of the radicals of W and X can be covalently linked to one another;

Group VIII: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR1 wherein R1 is as claimed, at least one of R2-R9 is an aliphatic-heterocyclic or heterocyclic group and the remainder of the radicals R2-R9 are as claimed, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and W and X can be covalently linked to one another;

Group IX: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR1 wherein R1 is as claimed, R2-R9 are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring, none of the substituents on the ring(s) can be heterocyclic, either W and X or both are heterocyclic or aliphatic-heterocyclic, whereas the other W or X that is not heterocyclic or aliphatic-heterocyclic, can be any of the other radicals claimed for W or X, and none of the radicals of W and X can be covalently linked to one another;

Group X: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR1 wherein R1 is as claimed, R2-R9 are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring of the formula III in claim 3, then least

one of the R12-R17 or R21-R28 can be a heterocyclic or aliphatic-heterocyclic ring, either W and X or both are heterocyclic or aliphatic-heterocyclic, whereas the other W or X that is not heterocyclic or aliphatic-heterocyclic, can be any of the other radicals claimed for W or X, and W and X are covalently linked to one another;

Group XI: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR1 wherein R1 is as claimed, at least one of the radicals R2-R9 is an aliphatic-heterocyclic or heterocyclic group and the rest of the radicals R2-R9 are as claimed, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring, none of the substituents on the ring(s) can be heterocyclic, either W and X or both are heterocyclic or aliphatic-heterocyclic, whereas the other W or X that is not heterocyclic or aliphatic-heterocyclic, can be any of the other radicals claimed for W or X, and none of the radicals of W and X can be covalently linked to one another;

Group XII: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR1 wherein R1 is as claimed, at least one of R2-R9 is an aliphatic-heterocyclic or heterocyclic group and the remainder of the radicals R2-R9 are as claimed, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring of the formula III in claim 3, at least one of the R12-R17 or R21-R28 can be a heterocyclic or aliphatic-heterocyclic ring, either W and X or both are simultaneously heterocyclic or aliphatic-heterocyclic, whereas the other W or X that is not heterocyclic, are the other moieties claimed, and W and X are not covalently linked to one another;

- Group XIII: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, either W and X or both are simultaneously heterocyclic or aliphatic-heterocyclic, whereas the other W or X that is not heterocyclic, are the other moieties claimed and none of the radicals of W and X can be covalently linked to one another;
- Group XIV: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, either W and X or both are simultaneously heterocyclic or aliphatic-heterocyclic, whereas the other W or X that is not heterocyclic, are the other moieties claimed and none of the radicals of W and X can be covalently linked to one another;
- Group XV: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and none of the radicals of W and X can be covalently linked to one another;
- Group XVI: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, at least one of the radicals R₂-R₉ is an aliphatic-heterocyclic or heterocyclic group and the rest of the radicals R₂-R₉ are as claimed, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except

heterocyclic or aliphatic-heterocyclic, and none of the radicals of W and X can be covalently linked to one another;

Group XVII: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, at least one of the radicals R₂-R₉ is an aliphatic-heterocyclic or heterocyclic group and the remainder of the radicals R₂-R₉ are as claimed, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and W and X can be covalently linked to one another;

Group XVIII: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring of the formula III in claim 3, then at least one of the R₁₂-R₁₇ or R₂₁-R₂₈ can be a heterocyclic or aliphatic-heterocyclic ring, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and W and X are covalently linked to one another;

Group XIX: Claims 1-6, drawn to the phosphinine compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q is heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and W and X are covalently linked to one another;

Group XX: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the

radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring none of the substituents on the ring(s) can be heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and none of the radicals of W and X can be covalently linked to one another;

Group XXI: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring of the formula III in claim 3, then at least one of the R₁₂-R₁₇ or R₂₁-R₂₈ can be a heterocyclic or aliphatic-heterocyclic ring, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and W and X are covalently linked to one another;

Group XXII: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, at least one of the radicals R₂-R₉ is an aliphatic-heterocyclic or heterocyclic group and the rest of the radicals R₂-R₉ are as claimed, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring, none of the substituents on the ring(s) can be heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and none of the radicals of W and X can be covalently linked to one another;

Group XXIII: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, at least one of R₂-R₉ is an aliphatic-heterocyclic or heterocyclic group and the remainder of the radicals R₂-R₉ are as claimed, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring of the formula III in claim 3, then at least one of the R₁₂-R₁₇ or R₂₁-R₂₈ can be a heterocyclic or aliphatic-heterocyclic ring, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, are covalently linked to one another;

Group XXIV: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and none of the radicals of W and X can be covalently linked to one another;

Group XXV: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and W and X are covalently linked to one another;

Group XXVI: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, at least one of the radicals R₂-R₉ is an aliphatic-heterocyclic or heterocyclic group and the remainder of the radicals R₂-R₉ are as claimed, M is as claimed, Q can be

heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and none of the radicals of W and X can be covalently linked to one another;

Group XXVII: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, at least one of the radicals R₂-R₉ is an aliphatic-heterocyclic or heterocyclic group and the remainder of the radicals R₂-R₉ are as claimed, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and W and X can be covalently linked to one another;

Group XXVIII: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring, none of the substituents on the ring(s) can be heterocyclic, either W and X or both are heterocyclic or aliphatic-heterocyclic, whereas the other W or X that is not heterocyclic or aliphatic-heterocyclic, can be any of the other radicals claimed for W or X, and none of the radicals of W and X can be covalently linked to one another;

Group XXIX: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring of the formula III in claim 3, then at least one of the R₁₂-R₁₇ or R₂₁ or R₂₈ can be a heterocyclic or aliphatic-

heterocyclic ring, either W and X or both are heterocyclic or aliphatic-heterocyclic, whereas the other W or X that is not heterocyclic or aliphatic-heterocyclic, can be any of the other radicals claimed for W or X, and W and X are covalently linked to one another;

Group XXX: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, at least one of the radicals R₂-R₉ is an aliphatic-heterocyclic or heterocyclic group and the rest of the radicals R₂-R₉ are as claimed, M is as claimed, Q can be moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring, none of the substituents on the ring(s) can be heterocyclic, either W and X or both are heterocyclic or aliphatic-heterocyclic, whereas the other W or X that is not heterocyclic or aliphatic-heterocyclic, can be any of the other radicals claimed for W or X, and none of the radicals of W and X can be covalently linked to one another;

Group Ia: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, at least one of R₂-R₉ is an aliphatic-heterocyclic or heterocyclic group and the remainder of the radicals R₂-R₉ are as claimed, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring of the formula III in claim 3, at least one of the R₁₂-R₁₇ or R₂₁-R₂₈ can be a heterocyclic or aliphatic-heterocyclic ring, either W and X or both are simultaneously heterocyclic or aliphatic-heterocyclic, whereas the other W or X that is not heterocyclic, are the other moieties claimed, and W and X are covalently linked to one another;

Group IIa: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be aliphatic-heterocyclic or heterocyclic, either W and X or both are simultaneously heterocyclic or aliphatic-heterocyclic, whereas the other W or X that is not heterocyclic, are the other moieties claimed and none of the radicals of W and X can be covalently linked to one another;

Group IIIa: Claims 7-13, drawn to the phosphinine-metal compound of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, either W and X or both are simultaneously heterocyclic or aliphatic-heterocyclic, whereas the other W or X that is not heterocyclic, are the other moieties claimed, and none of the radicals of W and X can be covalently linked to one another;

Group IVa: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and none of the radicals of W and X can be covalently linked to one another;

Group Va: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, at least one of R₂-R₉ is an aliphatic-heterocyclic or heterocyclic group and the rest of the radicals R₂-R₉ are as claimed, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or

aliphatic-heterocyclic, and none of the radicals of W and X can be covalently linked to one another;

Group VIa: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, at least one of R₂-R₉ is an aliphatic-heterocyclic or heterocyclic group and the remainder of the radicals R₂-R₉ are as claimed, M is as claimed, Q can be heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and W and X can be covalently linked to one another;

Group VIIa: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring of the formula III in claim 3, then at least one of the R₁₂-R₁₇ or R₂₁-R₂₈ can be a heterocyclic or aliphatic-heterocyclic ring, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and W and X are covalently linked to one another;

Group VIIIa: Claims 7-13, drawn to the phosphinine-metal complex of formula 1 wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is as claimed, Q is heterocyclic or aliphatic-heterocyclic, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and W and X are covalently linked to one another;

Group IXa: Claims 14 and 16 drawn to a process comprising hydroformylating an olefin wherein the phosphinine claimed in claim 1 and is present in the olefin; and

Group Xa: Claims 15 and 17 drawn to a process comprising hydroformylating an olefin wherein the phosphinine-metal complex claimed in claim 7 is used as a catalyst.

In addition, the Examiner is requiring election of a single disclosed species within the chosen group.

Applicant elect, with traverse, Group II, Claims 1-6, drawn to the phosphinine compound of formula I wherein n is 0 or 1, Y is O, NH, NR₁ wherein R₁ is as claimed, R₂-R₉ are all the radicals claimed except aliphatic-heterocyclic or heterocyclic, M is claimed, Q can be any moiety claimed except heterocyclic or aliphatic-heterocyclic, and if Q is aromatic or aromatic-aromatic ring of the formula III in claim 3, then at least one of the R₁₂-R₁₇ or R₂₁-R₂₈ can be a heterocyclic or aliphatic-heterocyclic ring, W and X can be any radical claimed except heterocyclic or aliphatic-heterocyclic, and W and X are covalently linked to one another. Further, Applicants elect, with traverse, for search purposes only, the single disclosed species compound 1-c on page 10 of the specification. Claims 1, 2, 4 and 6 read on the elected species.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required. (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples, to support any conclusion in regard to patentable distinctness (M.P.E.P. § 803). Applicants respectfully traverse the Restriction Requirement on the grounds that the Examiner has not carried the burden of providing any reasons and/or examples to support any conclusions that the claims of the restricted groups are patentably distinct.

The Examiner states that "... the different inventions have achieved a separate status in the art, have separate fields that are not coextensive, and are capable of supporting separate patents. Further, a prior art reference that would anticipate the claims under 35 U.S.C. § 102(b) would not render obvious the same claim(s) under 35 U.S.C. § 103(a) with respect to another member. Searching the entire genus would be a burden on the USPTO in terms of time and expense."

The Applicants note that the compounds disclosed in the application all have the basic formula given in formula I, and therefore have this field in common. In addition, Applicants note that, for example, groups II, VI and XVIII all can contain the selected species compound 1-c on page 10 of the specification. Restriction to the point that several groups can contain a single disclosed species is believed to be improper and should be withdrawn.

Applicants also note that the groups are classified in class 564, subclass 13 or class 556, subclass 19. This narrow classification illustrates that the fields are coextensive, and therefore, the Examiner has provided insufficient reasons in her belief. Accordingly the Examiner has not met the burden placed upon her, and therefore, the restriction is believed to be improper and should be withdrawn.

The Examiner states that Groups I-VIIIa and IXa-Xa are related as product and process of use.

Patentable distinctness may be shown if either or both of the following can be shown: (A) that the process of using as claimed can be practiced with another materially different product or (B) that the product as claimed can be used in a materially different process (M.P.E.P. § 806.05(h)). The Examiner states that "... the product as claimed can be used in a materially different process of using that product as demonstrated throughout the specification and in the claims 14-17 which are directed to several different methods of using the product, for example as a catalyst or as a ligand present in the olefin." However, the

Examiner has not provided a sufficient reason to support the criteria required under § 806.05(h). Therefore, the Examiner's reasoning is nearly a restatement of the Examiner's conclusion that the two groups are patentably distinct. As the Examiner has provided insufficient reasons in support of her belief the Examiner has not met the burden placed upon her, and accordingly, the restriction is believed to be improper and should be withdrawn.

Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper, there must be a patentable difference between the species as claimed. M.P.E.P. §808.01(a). The Office has not provided sufficient reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants respectfully submit that the restriction is improper, and Applicants' election of species is for examination purposes only.

As noted above, the Examiner only has to search two subclasses in her examination. Therefore, Applicants respectfully submit that the Office has not shown that a serious burden exists in searching the entire application.

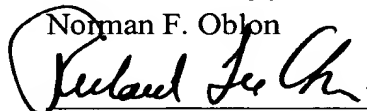
Finally, with respect to the elected species, Applicants respectfully submit that, should the elected species be found allowable, the Office should expand its search to the non-elected species.

Applicants submit this application is now in condition for examination on the merits and early notification of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon



Richard L. Chinn, Ph.D.
Registration No. 34,305

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/03)
DKD:smi:abs

Donald K. Drummond, Ph.D.
Registration No. 52,834